

REMARKS

Claims 1-10 are pending and stand rejected, with claim 1 being the sole independent claim.

Claim 1 is amended herein. The amendment is made for clarification purposes only, not to overcome any prior art. Claims 11 and 12 are added herein to recite the invention somewhat differently. No new matter has been added herein.

Reconsideration of this application is respectfully requested in view of these amendments and remarks.

Rejections under 35 U.S.C §103

Claims 1, 2, 9 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-076296 to Noriyuki et al. in view of US 6,582,413 to Krautkramer et al.; claims 3, 5, 7 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Noriyuki in view of Krautkramer and further in view of US 200610084935 to Franco et al.; claim 4 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Noriyuki in view of Krautkramer and Franco and further in view of US 6,297,424 to Olson et al.; and claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Noriyuki in view of Krautkramer and Franco and further in view of JP 05-319718 to Yoshio. The rejections are respectfully traversed.

Regarding claim 1, the Examiner finds that Noriyuki teaches pants type diaper as recited therein, but for a “male-female fastening system”. Interestingly, the Examiner does not define what he considers a “male-female fastening system” to be, other than referencing column 27, lines 9-20, and that this phrase is not recited in the instant claims. In any event, to cure this acknowledged deficiency the Examiner looks to Krautkramer, arguing that it would have been obvious to “provide the sticker of JP 11-076296 with the male-female fastening system, as taught by Krautkramer in order to employ the conventionally known method for fastening diaper elements.”

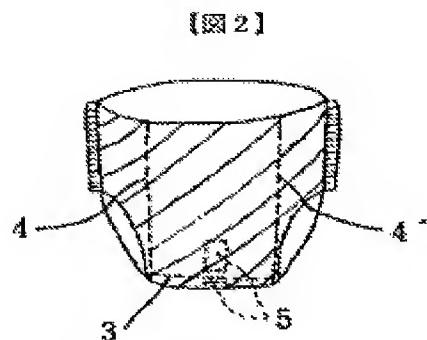
As to Noriyuki, the Examiner states “the absorbent article [presumably Noriyuki’s diaper] comprises the fastening sticker 5 (plane fastener) comprising the perforation in the width

direction and attached to the outer surface of the article, such a sheet-like member fully capable of being re-struck to and re-peeled off from the outer surface of the back sheet and separable completely from the main body of the article”. Notwithstanding that **claim 1 does not recite** a “plane fastener”, a “perforation in the width direction” or a “sheet-like member fully capable of being re-struck to and re-peeled off from the outer surface of the back sheet”, Applicants must disagree with the Examiner’s characterization of Noriyuki.

For example, Noriyuki’s detail 5 upon which, as best can be understood, the Examiner relies, is a conventional “folding adhesive tape” that has an end portion **completely fixed to** the diaper, with the remaining portion of the tape folded upon itself until extended for use. In fact, other than its location, Noriyuki’s folding adhesive tape 5 is exactly the same as the conventional “fastening tape 10” described in the present application at, for example, the paragraph bridging pages 2 and 3.

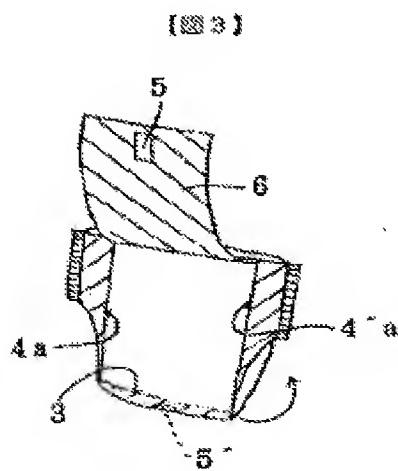
As to its location, folding adhesive tape 5 is not fixed to the exterior of a diaper as is “fastening tape 10,” but instead is fixed to an internal surface of the diaper, as best seen in Fig. 2 reproduced below. More specifically, Noriyuki **expressly discloses** that the location of the folding adhesive tape 5 is “the **internal surface** of the exterior sheet 2” (see also Figs. 2 and 3) near a widthwise perforation 3 in exterior sheet 2. The exterior sheet 2, which also has lengthwise perforations 4 and 4’, is itself “**fixed on**” back sheet 1. In other words, folding adhesive tape 5 is fixed to the side of exterior sheet 2 that **faces** the back sheet 1. Noriyuki also discloses that another (i.e., second) folding adhesive tape 5’ may be fixed to the interior surface of exterior sheet 2, the second folding adhesive tape 5’ being across the widthwise perforation 3 from the first folding adhesive tape 5.

Figure 2:



Noriyuki also discloses a winding, or rolling, piece (detail 6, Figs. 2-4) which is used when discarding a soiled diaper. Winding piece 6 is a portion of exterior sheet 5 and is made by a user opening, i.e., tearing, perforations 3, 4 and 4' at the time of disposal. As best seen in Fig. 3, reproduced below, winding piece 6 has three free sides (corresponding, respectively, to perforations 3, 4 and 4') and a fourth side which **remains fixed to** the back sheet 1.

Figure 3:

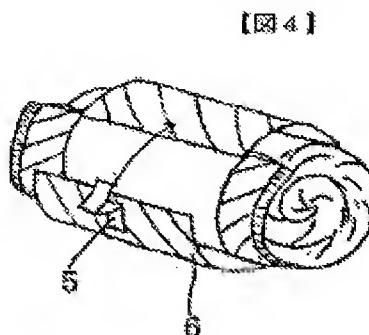


As shown in Fig. 4, reproduced below, the user wraps the winding piece 6 around the rolled diaper so that the free side of the winding piece 6 corresponding to perforation 3 approaches the fixed side of the winding piece 6, extends folding adhesive tape 5, sticks the

extended end, i.e., free end, onto the fixed side of the winding piece 6 to secure the soiled diaper within the winding piece 6, and disposes of the soiled diaper.

As should be understood from the above, Noriyuki teaches a disposable diaper in which folding adhesive tape 5 is located **within the diaper body** while the diaper is worn and which is **not accessible** until the perforations are opened/torn. Clearly then, folding adhesive tape 5 and winding piece 6 are intended to be **used only one time**.

Figure 4:



Because the conventional folding adhesive tape 5 is **fixed to the internal surface** of the exterior sheet 2, it is **not** “*attached to the outer surface of the back body and separable completely from the back body of the diaper*” as recited in claim 1, and because conventional folding adhesive tape 5 is intended to be **used once**, it is **not**, as recited in claim 1, “*selected to repeatedly releasably engage*”.

Further, because winding piece 6 is a **portion of** the exterior sheet 6, it is **not** a “*fastening sticker*” and is **not** “*separable completely from the back body of the diaper*” and because winding piece 6 is intended to be **used once**, it is “**not** “*selected to repeatedly releasably engage*”.

Krautkramer does not cure the deficiencies of Noriyuki noted above. Krautkramer teaches a diaper which includes fastening system having fastener tabs 36 **attached to** respective end portions of a **first waistband 12** and a corresponding fastener landing zone member 50 **attached to a second waistband 14** for interconnecting the waistband portions 12 and 14 to secure the diaper on a wearer (see, for example, column 4, lines 1-4, column 26, lines 25-31 and 43-56, and Figs 1 and 2).

Krautkramer discloses several embodiments in which this fastening system is a refastenable fastening system such that landing zone member 50 provides “an operable target area for generating a releasable and re-attachable securement with at least one of the fastener tabs 36” (column 26, lines 15-18). For example, the text relied upon by the Examiner discloses a mechanical hook-and-loop embodiment (referred to by the Examiner as a “male-female fastening system”) in which the hook portion is attached to a surface of the fastener tab 36 and the complimentary loop portion is “operably joined and attached to the appointed landing zone member 50.

As should be understood, Krautkramer’s ‘male-female fastening system’ describes a fastening relationship between the fastener tab 36 and the landing zone member 50 that is substantially different in constitution and operation from presently claimed invention.

Because Krautkramer teaches a fastening system for securing a diaper to a wearer in which includes tabs and landing zones **attached to** the diaper, neither are “*separable completely from the back body of the diaper*”. Further, Krautkramer simply lacks any teaching whatsoever of “*an outer surface of the back body is formed with female fastening members*” or any type of fastener “*formed from a base sheet with male fastening members disposed along two edge portions of its back surface*” as also recited in claim 1.

The other applied references do not cure the deficiencies of Noriyuki and Krautkramer. Franco only discloses that conventional folded adhesive tapes are “many times colored and decorated”. Olson simply teaches a diaper with a decorative design thereon. JP 05-319718 merely teaches a disposable cover paper 8 covering an adhesive face 9 of an adhesive tape 7a, the cover paper 8 peeled off using finger catch 8a and then discarded.

In order to advance the prosecution of this matter, claim 1 is clarified by amendment herein to recite “*the fastening sticker does not have an inseparable fixing edge portion fixed to the main body of the diaper*”. This non-narrowing amendment is made solely to assist the Examiner in identifying the differences between the prior art and claim 1, not to overcome any prior art. Applicant expressly notes that therefore this amendment is not made for purposes related to patentability. The amendment is fully supported by the originally filed application and no new matter has been added.

In view of the above, it is respectfully submitted that the applied art, whether taken individually or in any combination, fails to teach or suggest a pants type diaper having “*an outer surface of the back body ... formed with female fastening member*” and a “*fastening sticker*” that “*does not have an inseparable fixing edge portion fixed to the main body of the diaper and is formed from a base sheet with male fastening members disposed along two edge portions of its back surface, the male fastening members selected to repeatedly releasably engage the female fastening members on the outer surface of the back body, the fastening sticker being attached to the outer surface of the back body and separable completely from the back body of the diaper*” as expressly recited in claim 1.

Applicants respectfully remind the Examiner of the requirements that “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).” (emphasis added) The Examiner has not made, and indeed cannot make, a *prima facie* showing that at least the above-quoted language of claim 1 is disclosed in Noriyuki alone, Krautkramer alone, Franco alone, Olson alone, or JP 05-319718 alone, or in any combination thereof. Applicants therefore submit that claim 1 is allowable and respectfully requests the Examiner to reconsider and pass the claim to issue.

Dependent Claims

Claims 2-10 depend from claim 1, either directly or indirectly. “If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, in light of the above discussion of claim 1, Applicant submits that claims 2-10 are also allowable at least by virtue of their dependency on claim 1 as well as the additional limitations recited by each of these claims.

New claims 11 and 12 are added herein to recite the invention somewhat differently. It is respectfully submitted that these claims are allowable for the same reasons as claim 1, as discussed above. In particular, the applied art fails to teach or suggest an “*absorbent article*” or a “*pants type diaper*” “*comprising a fastening sticker*” “*with male fastening members*” that are “*configured to engage female fastening members formed on*” an “*outer surface of the back sheet such that the fastening sticker is freely attachable to and detachable from the outer surface of the back sheet and separable completely from the main body*” of the absorbent article or diaper.

Claims 11 and 12 are fully supported by the originally filed application and no new matter has been added.

In view of the above, Applicants submit that the application is now in condition for allowance and respectfully urge the Examiner to pass this case to issue.

* * *

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of

months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this document is being transmitted to the Patent and Trademark Office via electronic filing.

May 11, 2009

(Date of Transmission)

Respectfully submitted,
/Sterling W. Chandler 51,370/

Sterling W. Chandler
Attorney for Applicant
Reg. No. 51,370
LADAS & PARRY LLP
5670 Wilshire Boulevard, Suite 2100
Los Angeles, California 90036
(323) 934-2300 voice
(323) 934-0202 facsimile
schandler@la.ladas.com